

Region 1

Hot Issues:

Olin Chemical Superfund Site Settlement

- On November 7, 2017, EPA and Olin Corporation entered into a dispute resolution settlement agreement over the need to conduct evaluations of early cleanup action alternatives to address contaminant sources in groundwater. Under this agreement, Remedial Investigation/Feasibility Study work is expected to proceed more quickly.

Logan Airport, Boston, Mass - Parking Freeze SIP Revision

- A notice of proposed rulemaking approving revisions to the Logan Airport Parking Freeze was signed on Nov 13.

The revisions to the Logan Airport Parking Freeze will increase the number of commercial spaces by 5,000 spaces. MassDEP demonstrated that the increasing parking will result in less trips to the airport and decrease the vehicle miles traveled and associated carbon monoxide and nitrogen oxides emissions.

Upcoming Public Events:

Sporting Goods Properties RCRA Corrective Action Site, Bridgeport, CT

- EPA and Dupont issued for public comment a Statement of Basis which identifies the selected remedial action to address munitions at the site. There is a 45-day comment period and there will be a Public Meeting on November 29.

Upcoming Major Decisions

None

Highlights from Last Week

Lead Region Activities

- Region 1 hosted a RCRA Division Directors meeting on November 15th and 16th. The meeting was attended by senior RCRA managers from each region, ORCR, OECA, OBLR and a representative from the National Tribal Caucus.

R1 Futures Fund Award Announcement

- On November 16, Region 1 Acting Regional Administrator Deb Szaro joined CTDEEP Commissioner Robert Klee to announce the 2017 Long Island Sound Futures Fund awardees in Connecticut.
- The Long Island Sound Futures Fund grants will restore 39 acres of habitat; will reach more than 870,000 residents through environmental and conservation education programs; and treat 439,000 gallons of water pollution with water quality improvement projects, including more than 15,600 pounds of nitrogen reduced and 2,800 pounds of floating trash collected.

Region 2

Hot Issues:

EPA Response to Hurricanes Irma and Maria in Puerto Rico and U.S. Virgin Islands

RA Lopez Nov. 14, 2017 testimony to Congress: On Nov. 14, Regional Administrator (RA) Pete Lopez, along with Region 4 RA Trey Glenn and Region 6 Acting RA Sam Coleman, testified on the agency's response to Hurricanes Harvey, Irma and Maria at a hearing held by the House Energy & Commerce Committee, Subcommittee on the Environment. Region 2 is working with OCIR on follow-up responses to questions from Rep. DeGette at the Subcommittee hearing. On Nov. 14 RA Lopez, along with RA Glenn, Acting RA Coleman, Acting AA Barry Breen of OLEM, and Senior Advisor to the Administrator Holly Greaves, also participated in a members' briefing for the House Appropriations Committee led by Chairman Calvert.

Continuing Emergency Response in Puerto Rico and the U.S. Virgin Islands: Region 2, assisted by Regions 1, 3, 4 and 5, continues to provide emergency response support to FEMA, the Corps of Engineers, and the governments of Puerto Rico and the USVI in the aftermath of Hurricanes Irma and Maria. EPA currently has approximately 229 personnel (employees and contractors) in PR and the USVI working on the response. That number is planned to increase to about 400 during December, as we continue to work with partner federal and territorial agencies on debris removal, vessel recovery and disposal, and assuring safe drinking water and wastewater services. Conditions on the islands remain very challenging, particularly the continuing widespread electrical power outages (approximately 70% of the population is reported without power) and lack of drinking water in many places in Puerto Rico (over 10% of the population lacks access to functioning drinking water systems). Communications and access are improving, but it remains challenging to secure sufficient lodging on the islands for our personnel; the Region also has had some difficulty arranging for our desired number of personnel because of the demands nationally for staff to respond to the California wild fire emergency. *See Region 2 Daily Management Report on Hurricanes Irma and Maria for further details.*

Puerto Rico Marine Water Sampling for Impacts Due to Hurricane Maria – At the request of the Puerto Rican Environmental Quality Board (PREQB), Region 2 is sampling ocean (marine) locations this week to evaluate impacts from Hurricane Maria, particularly the effects of sewage discharges resulting from out-of-service wastewater treatment plants and pump stations and runoff due to heavy rains. If the samples show unacceptable levels of pathogens, the bathing public will be notified by PREQB. PREQB, CDC and EPA continue to warn residents not to drink from or bathe in streams or at beaches due to the high risk of bacterial contamination.

Administrative Order providing relief to Puerto Rico Dept. of Transportation/Highways. On November 15, 2017, EPA Region 2 signed and issued an administrative order on consent with the Puerto Rico Department of Transportation and the P.R. Highways Authority. The order provides the two agencies with temporary coverage under the NPDES Construction General Permit, due to the hurricane-related impairment of the operations of the Government of Puerto Rico. The administrative order will remain in effect for 150 days from the date of issuance.

Region 2 Superfund Sites

Navy Superfund Site in Vieques, Puerto Rico: Teams of unexploded ordinance technicians from Navy contractors have completed the assessment of roads and beaches within the former military training areas on the Puerto Rico island of Vieques. No munitions or other contamination on public beaches or any of the roads and beaches outside the “Live Impact Area” have been found. Within that area, 9 ordinance items were located and moved to safe/secure location awaiting demolition. There is still no electrical power on Vieques and water service is intermittent. The Navy is currently exploring options for water and fuel storage at Camp Garcia. For the next 2 months, Navy will focus on repairing roads, buildings, and other facilities; repairing fences and restoring land use controls; and clearing areas inside the “live impact area” where munitions have become exposed by erosion. The Navy will also evaluate the effects of the storm on beaches and munitions underwater. The Navy expects to complete its response and recovery efforts by the week of January 10.

Consent Decree Lodged for Cleanup Action at Kentucky Avenue Wellfield Site. On November 14, 2017, the Department of Justice lodged with the court in the Western District of New York a consent decree between EPA and nine potentially responsible parties, obligating them to implement the remedy selected by EPA in the 2016 Record of Decision for operable unit 4 of the Kentucky Avenue Wellfield Superfund Site in Horseheads, NY. The nine parties are: Beazer East, CBS Corp., Chemung County, the City of Elmira, Elmira Water Board, Hardinge Inc., Toshiba America, the Town of Horseheads, and the Village of Horseheads. The remedy addresses Koppers Pond, which is contaminated with PCBs and heavy metals. The remedy is expected to cost \$1,921,000 and includes the placement of a geotextile membrane and a six-inch soil/sand cap on the pond bottom. The settling defendants are also agreeing to reimburse 100% of future response costs incurred by EPA

RA Lopez to Speak at Public Meeting about Gowanus Canal Superfund Site: On Nov. 16, RA Pete Lopez is speaking at a community meeting hosted by the Gowanus Canal [Brooklyn, NY] Superfund Site Community Advisory Group. Representative Nydia Velasquez is scheduled to make opening remarks and introduce the RA. The purpose of the meeting is to report to the community on the status of work at this site. Good progress is being made on the design of the Canal cleanup; a dredge-and-cap pilot project started last month will be completed by spring. We expect questions about the overall schedule of the project, which is likely to take somewhat longer than the originally projected completion date of 2022 (we are working with the PRPs to develop an updated schedule). We expect press coverage of the meeting.

Compliance and Enforcement

Follow-up with New Jersey Homebuilders Association on Construction Stormwater Inspections: Following the October 24, 2017 headquarters meeting with the National Association of Home Builders (NAHB) hosted by OECA, Region 2 reached out to the New Jersey Builders Association (NJBA) to discuss plans for this year and to keep the lines of communication open. The NJBA expressed concerns that their members don’t know how to comply with the stormwater requirements, and they do not want members surprised by the inspector’s findings. Region 2 assured the NJBA representative that Region 2 will keep these concerns in mind as we continue to assist the NJ Department of Environmental Protection in meeting the compliance monitoring strategy goal of inspecting 10% of construction sites each year. EPA inspectors are trained to communicate concerns in the field during the inspection and to summarize observations at the closing conference with the builder.

New Jersey Settles with Volkswagen Over Emissions Cheating: On Nov. 14, 2017 New Jersey announced a \$69M settlement with Volkswagen (VW) over VW's emissions cheating scandal. There has been no indication yet of where the funds might be directed. New Jersey also has indicated that it will participate in the federally-negotiated Environmental Mitigation Trust, for which state applications are due by December 1. New York has already filed its application, and Puerto Rico also has indicated its intent to apply.

Region 2 Water Program

RA Attends New York-New Jersey Harbor and Estuary Program (HEP) Policy Committee Meeting: RA Lopez attended the HEP Policy Committee in New York City on November 9, 2017. Participants included Colonel Asbery of the U.S. Army Corps of Engineers (USACE), Deputy Commissioner Jim Tierney of the New York State Department of Environmental Conservation (NYSDEC), Deputy Commissioner Angela Licatta of the New York City Department of Environmental Protection, and (by phone) Acting Assistant Commissioner Michelle Putnam of the New Jersey Department of Environmental Protection.

President Trump Declares Lake Ontario Shoreline a Federal Disaster Area: On Nov. 14, 2017 President Trump declared New York's Lake Ontario shoreline a disaster area, opening up federal funding for recovery efforts from flooding that took place there between May 2 and Aug. 6, 2017. State, local and tribal governments, as well as some nonprofit groups, will be eligible to apply for federal money for emergency work and the repair or replacement of facilities damaged by flooding in Niagara, Orleans, Oswego, Wayne, St. Lawrence and Jefferson counties. Also under the president's declaration, the state is eligible for federal funding on a cost-sharing basis for hazard mitigation efforts.

Other RA Public Appearances

On Nov. 15, 2017, RA Lopez delivered remarks at the **New York Business Council's Annual Environmental Conference** in Saratoga Springs, NY. The conference brings together regulatory agencies on the local state and federal level with businesses to discuss shared goals of protecting the environment while keeping businesses healthy. Pete was interviewed by a reporter from Politico, but no article has appeared.

On November 17, 2017 RA Lopez is participating in the "**2017 Conference on the Environment**" in Kingston, New York, which is organized by the **New York State Association of Conservation Commissions**.

Region 3

Hot Issues:

RA Servidio Meets with West Virginia Chamber of Commerce

On Wednesday, November 15, 2017 RA Servidio met with approximately 20 members of the WV Chamber of Commerce during their annual visit to the Region. The meeting lasted half a day and consisted of an active exchange of questions and information from our Division Directors and the members of the Chamber. The Directors will continue to follow up on any questions not answered that day. The goal is to foster the active and open communication while also discussing the Agency's strategic plan and focus on transparency.

Chesapeake Bay Journal Files FOIA Lawsuit Against EPA: Bay Journal Media, Inc. v EPA, Civil No. 1:17-cv-02441 (D.DC)

On November 13, 2017, Plaintiff Bay Journal Media, Inc., filed a Complaint under the Freedom of Information Act, 5 U.S.C. § 552 (FOIA), against EPA alleging failure to timely respond and release responsive documents to a FOIA filed September 22, 2017 by Plaintiff. Plaintiff publishes the *Chesapeake Bay Journal*, and both the FOIA and lawsuit seek documents related to EPA's decision of September 20, 2017, to terminate a federal CWA grant that had been previously awarded to Plaintiff. In January 2016, following a competitive application process, EPA awarded Plaintiff a \$1.95 million, six-year grant to provide incremental annual funding, contingent upon federal funding and the terms of the grant agreement, to publish and distribute the *Bay Journal* to "raise public awareness of issues concerning the Chesapeake Bay and its health." Under this grant, EPA provided Plaintiff with two installments of \$350,000 each in January 2016 and February 2017. EPA provided official notice to Plaintiff on September 20, 2017 of its decision to terminate the grant. Plaintiff is in the process of appealing that decision and has until November 20, 2017 to complete its filing.

Upcoming Public Events:

No events to report at this time.

Past Events:

No events to report at this time.

Region 4

Hot Issues:

Chemours Unreported Release of GenX (North Carolina)

Key Message: On November 16, 2017, North Carolina Department of Environmental Quality (NC DEQ) notified Chemours that they are suspending the portions of the facility's NPDES permit which authorize the discharge of process wastewater from the Chemours Fluoromonomers/Nafion Membrane manufacturing area and that they intend to revoke those portions of the permit in 60 days. This follows an unreported spill on October 6, which resulted in elevations of GenX in the Cape Fear River and in Brunswick County finished drinking water. Both incidents are under ongoing investigation by NC DEQ. Earlier this week, NC DEQ cited Chemours with violating the condition of its wastewater discharge permit. Region 4 will continue to process samples as we receive them from the state.

B.F. Goodrich (Calvert City, Kentucky)

Key Message: Based on the November 13th briefing with the Administrator, Region 4 is working with the Region 4 Office of Regional Counsel and the Office of Superfund Remediation and Technology Innovation on enhancing the proposed plan language and incorporating multiple cleanup remedies in order to reduce the footprint of contamination at the site. Region 4 anticipates submitting the final proposed plan to the Administrator early the week of November 20th.

Highlights from Last Week:

None

Upcoming Travel for the RA:

None

Region 5

Hot Issues:

EPA will Announce East Chicago DuPont Corrective Action Cleanup Plan

Key Message: On November 27, EPA will officially propose a cleanup plan to address lead and arsenic contaminated land and groundwater at the former DuPont facility in East Chicago, Indiana.

The DuPont East Chicago facility is approximately 440 acres and is to the south of Zones 1-3 of the USS Lead site. The proposed cleanup plan will focus on the industrial area of the site, which currently contains a solid-waste landfill, open filled land, industrial property available for redevelopment, and leased industrial property. Most of the previously active manufacturing areas have been decommissioned and the production facilities removed. The rest of the site is made up of a 172-acre natural area and an adjacent 23-acre buffer zone. The natural area and the buffer zone were cleaned up under a separate corrective action decision in 2014.

A 60-day public comment period on the agency's proposed plan begins November 27, 2017, and closes January 26, 2018. EPA staff will present the proposed plan, answer questions and take oral and written comments at a public meeting scheduled for January 10, 2018 in East Chicago. More information can be found [here](#).

EPA Participated in Representative Dingell's Gelman Facility Public Meeting

Key Message: The November 13, 2017 meeting, held in Scio Township, Michigan, was to improve communication between the Michigan Department of Environmental Quality (MDEQ) and the local community regarding the Gelman 1,4-dioxane groundwater release, and to hear local community concerns.

The Gelman site is a state lead groundwater contamination site in Michigan. Some stakeholders have requested that EPA take back lead and list the site. At the meeting, EPA discussed the results of a recently-completed Superfund Preliminary Assessment (PA), the rationale for referring the Gelman release back to MDEQ for its continued management, and EPA's continued role at the site. Stakeholders and local elected representatives expressed disappointment that EPA was not pursuing listing the site on the National Priorities List nor taking over management of the groundwater remediation effort. EPA explained that MDEQ will continue to address the release with on-going involvement of an EPA Remedial Project Manager. EPA asked community members to identify exposure concerns that should be tracked and answered through MDEQ's reports to EPA, which will be shared with the public. EPA is working with MDEQ on the format of the reports and expects the first one to be submitted in early 2018. Approximately 40 people attended the meeting. In letters dated November 7, 2017, EPA provided the PA results to the MDEQ and the parties that submitted the PA petition to EPA – Scio Township, Ann Arbor Township, and Sierra Club-Huron Valley Group. The letters stated that although the Gelman release qualifies for further evaluation under the Superfund program, EPA decided to designate the Gelman release as "Other Cleanup Authority – State Lead." The letters described quarterly and semi-annual reporting that MDEQ agreed to submit to EPA; and further explained that EPA reserves the option to pursue enforcement actions at the Gelman facility in the future, and does not waive CERCLA authority.

Upcoming Events:

Acting Regional Administrator to Participate in McCook Reservoir Ribbon Cutting

Key Message: On December 4, 2017, Acting RA Bob Kaplan will give remarks at the Metropolitan Water Reclamation District of Greater Chicago's (MWRD) celebration of the completion of Phase I of the McCook Reservoir.

The McCook Reservoir is part of MWRD's Tunnel and Reservoir Plan (TARP). TARP was started by MWRD more than 40 years ago to help control the hundreds of combined sewer overflows (CSOs) running into Lake Michigan and Chicago area waterways every year. In 2011, a Consent Decree between MWRD, the state of Illinois, and the United States was reached to accelerate the pace of TARP. As required by the Consent Decree, the completion of Phase I of the McCook Reservoir will provide storage capacity for 3.5 billion gallons of wastewater that would be otherwise discharged as CSOs. By the completion of Phase II in 2029, the storage capacity of the reservoir will increase to 10 billion gallons. This project will significantly decrease the amount of pollutants entering the nearby waters.

This event will be open press.

Upcoming Major Decisions:

None

Past Week Accomplishments/Highlights:

Removal Action Completed at the Sandoval Zinc Residential Removal Site in Sandoval, Illinois

Key Message: On November 16, 2017, EPA completed a time-critical removal action to address elevated lead levels at residential and sensitive population properties in Sandoval, Illinois.

The Sandoval Zinc Co. operated as a primary and secondary zinc smelter for 85 years in Sandoval, Illinois. The cinder/slag material not used by the plant was offered to the public and village to construct roads, driveways, sidewalks, parking lots and to fill-in low areas on people's property. This removal action entailed excavation of low level lead contaminated soil, restoration with clean soil and hydro-seeding. The high school, grade school, private preschool, and six residential properties were completed as part of this removal action.

From 2009 through 2010, Illinois EPA and EPA conducted sampling, which was followed by EPA removal actions at eight properties. The site was placed on the National Priorities List in 2012. Based on subsequent soil data collected in June 2017, EPA identified a number of residential and sensitive population properties with lead concentrations in surface soils above 1,200 mg/kg. Based on this information it was determined that continued removal actions were necessary at the site. On September 25, 2017, Region 5 mobilized to the village for the clean-up of these properties. Over the past year, EPA has hosted or participated in three public meetings, met with locally elected officials, disseminated factsheets on the site and management of lead exposure and directly communicated with residents via sampling results letters and phone calls.

Region 5 Hosted Recycling Forum to Improve Quality of Recycled Materials

Key Message: On November 14, 2017, Region 5 hosted a Recycling Forum for representatives from state and local governments, recycling processors, and other stakeholders from the Chicago and Milwaukee areas.

Region 5, with the help of the city of Chicago, the Recycling Partnership, Illinois Recycling Association, Illinois EPA, and Chicago Metropolitan Mayors Caucus, planned a day of discussion and presentations on how to improve communications to citizens to increase recycling and improve the quality of materials received at recovery facilities. Improving the quality and quantity of recyclable materials collected can reduce the per ton costs of handling the material and increase revenue when marketing the processed materials. The Recycling Partnership gave an overview of their research (funded by Region 5) exploring the lack of consistent and easily discoverable citizen information on local recycling programs. Additionally, representatives from Region 5; a local solid waste agency; and a materials recovery facility discussed how to reduce problem materials being sent to recyclers. Attendees were encouraged to identify actions they can take to improve recycling in their communities.

Region 6**Hot Issues:****Arkema, Crosby, Texas**

Arkema has fully responded to EPA's information request and EPA is reviewing the materials to determine any areas requiring follow up. Arkema requested a meeting with EPA to discuss the investigation, which is scheduled for November 29, 2017.

San Jacinto River Pits Superfund Site, Harris County, Texas

EPA intends to respond to CenterPoint Energy's letter describing plans for natural gas pipeline maintenance that includes excavation in the northeast part of the Southern Impoundment of the site. The area may have dioxin contamination in levels above protective levels documented in the October 12, 2017, Record of Decision. EPA plans to recommend steps that protect human health, and advise that any actions resulting in the potential spread of contaminated material may result in Superfund liability. The public meeting to discuss the Record of Decision and provide a site update is scheduled for December 4.

Baker Hughes, Trinity and Tomball, Texas

EPA intends to send a RCRA 3007 information request to Baker Hughes. The purpose for this request is to acquire information as to its facilities' operations in Trinity and Tomball, Texas. The request will ask for any and all records related to the generation of hazardous waste during 2016 or an affidavit which will need to claim that hazardous waste was not generated at the aforementioned facilities. Both facilities show issues with RCRA regulations concerning notification and application for an EPA ID# along with requirements of a generator of hazardous waste.

Bird Creek, Osage County, Oklahoma

EPA continues to work on the response to comments from the public comment period and the hearing held on October 11, related to proposed Administrative Orders sent to Warren American Oil Company, Jireh Resources LLC, and Novy Oil and Gas, Inc. All three respondents believe the contamination is a one-time occurrence and dispute EPA's contention that they have caused or contributed to the contamination. EPA continues to internally review the plugging plan submitted by Novy Oil and Gas, Inc./Grayhorse Operating to plug the Well 15W (OS5258). EPA collected data from 10 in-stream monitor stations the week of October 23rd. Data analysis is ongoing related to this most recent download. EPA will be collecting additional data the week of December 4th. EPA conducted an inspection on October 30-31, 2017 of the Warren American Oil Company, Chapman Lease main tank battery and is preparing to issue an Administrative Order under the Clean Water Act (CWA) for an unauthorized discharge of produced waters of the U.S. during the week of November 13th.

Marathon Oil Company, Kingfisher County, OK

EPA plans to conduct a Spill Prevention Control and Countermeasure inspection at the Marathon Oil Company, Emil Boeckman No. 2-5 Lease Tank Battery, production facility. The inspection is scheduled due to citizen complaints of alleged unreported spills.

Griggs & Walnut Superfund Site, Las Cruces, Texas

EPA plans to hold a conference with the City of Las Cruces and Dona Ana County representatives regarding the Unilateral Administrative Order issued on November 6. The Regional Judicial Officer will preside over the conference. The city and county requested the conference on November 13, 2017.

Georgia-Pacific, Crossett, Arkansas

Arkansas Department of Environmental Quality will host a public meeting on December 14 to solicit comments on the state's Clean Air Act Title V permit renewal and the waste water discharge variance permit for the Georgia-Pacific plant in Crossett. Georgia-Pacific will share information regarding process improvements at the facility. Arkansas Department of Health will talk about the health assessment for nearby residents. EPA will attend the meeting and discuss the results of hydrogen sulfide air sampling near the plant. EPA is also preparing a comprehensive report of the air sampling conducted from January – June 2017 for public release. Media interest is high.

NEPA:

None

Upcoming Public Events:

November 28 – Oil and Gas Environmental Conference, Houston, Texas. Regional Counsel James Payne will keynote.

November 29 – 30 - Regional Tribal Operations Committee (RTOC) meeting, Tulsa, Oklahoma.

December 4 – San Jacinto Waste Pits Superfund Site Community Meeting, Highland Community Center, Highland, Texas.

December 11 – TCEQ meeting with environmental organizations on Hurricane Harvey response, Austin, Texas. EPA invited to participate.

December 14 – Georgia Pacific Public meeting hosted by Arkansas DEQ, Crossett, Arkansas.

Upcoming Decisions:

Revisions to Emissions Banking and Trading Programs, Texas

EPA intends to approve Texas revisions to Emissions Banking and Trading Programs for Area and Mobile Sources. This final action will address the revisions to the Texas Emissions Credit (EC) and Discrete Emission Credit (DEC) that clarify and expand the existing SIP approved programs for area and mobile source credit generation. The regulated community and the public have been active participants in the TCEQ stakeholder process for the development of these regulations.

Exceptional Event - Ozone Designation, El Paso, Texas

The Texas Commission on Environmental Quality (TCEQ) requested EPA's concurrence that an exceedance of the air quality 8-hour ozone concentration value on June 21, 2015, at the El Paso UTEP monitor was due to an exceptional event. The TCEQ presented evidence that the exceptional event was caused by wildfire emissions from southeastern Arizona. EPA expects to concur on the state's package *during the last week of November*. For the 2014 – 2016 air monitoring seasons, El Paso would meet the 2015 ozone standard. Intergovernmental interest has been high.

Past Week Accomplishments:

Veolia Environmental Services, Port Arthur, Texas

EPA approved a proposed PCB reauthorization for commercial storage and disposal of liquid and solid PCBs in Veolia's high temperature rotary kiln incinerator on November 7, 2017. A public notice announcing this proposal will be published in the Port Arthur News, opening a 45-day comment period and opportunity for a public hearing.

Pending Actions (Pending Federal Register Publication):

Oklahoma: Final Approval of State Underground Storage Tank Program Revision
FRL 9968-28-Region 6 and 9968-29-Region 6

Approval and Promulgation of Air Quality Implementation Plans; Arkansas; Infrastructure State Implementation Plan Requirements for the National Ambient Air Quality Standards,
FRL 9970-19-Region 6 (submitted to OFR on 11/14)

Region 7

Hot Issues:

Des Moines TCE Site Update (Des Moines, IA)

Key Message: On November 15, 2017, EPA R7 received a letter from Dico, Inc. suggesting a hiatus on proceeding with the Non-Time Critical removal action to allow time for negotiation of a work agreement for the site buildings.

- R7 will formulate a reply to the letter, and will move forward with discussions with Dico toward an agreement for building demolition.
- R7 remains in contact with DOJ regarding implications of this work on a potential global settlement that would resolve Dico's liabilities and provide for transfer of the property to a new owner.

Update on R7 Support for Puerto Rico & CA Wildfire Recovery

Key Message: R7 currently has 6 employees deployed to assist R9 with CA wildfire responses under the FEMA ESF #10 Mission Assignment. The Region also currently has two employees deployed as CICs to assist R2 with the Puerto Rico hurricane recovery response. R7 continues to participate in regular resource staffing calls to support both response efforts.

Last Week's Highlights:

Region 7 Settles CAA 112(r)(7) Matter with Fertilizer Distributor (Dighton, KS)

Key Message: On November 15, 2017, EPA R7 entered a Consent Agreement and Final Order in the matter of Lefty's Soil Service, Inc. (Lefty's), a chemical fertilizer distributor facility, in settlement of alleged CAA 112(r)(7) violations.

- A June 1, 2016, inspection revealed a number of Chemical Accident Prevention Provisions deficiencies, including failure to compile and maintain up-to-date safety information, failure to ensure that the process is designed in compliance with recognized and generally accepted good engineering practices and failure to implement Program 2 prevention steps.
- Failure to adhere to the Chemical Accident Prevention Provisions increases the risk of accidental chemical releases and inhibits the surrounding community from preparing for such releases.
- Lefty's has demonstrated compliance by correcting the deficiencies.
- The Consent Agreement and Final Order simultaneously commences and concludes the enforcement action and obligates Lefty's to comply with Section 112(r)(7) of the CAA. Further, the CAFO obligates Lefty's to pay a civil monetary penalty in the amount of \$5,000.

PCE Former Dry Cleaner Site Work Underway (Atlantic, IA)

Key Message: Cleanup work is underway at the PCE Former Dry Cleaner site in Atlantic, IA utilizing an Electrical Resistance Heating (ERH) system designed to volatilize contamination at depth and collect the contamination at the ground surface.

- The ERH system started on July 1, 2017 and two rounds of confirmation samples have been collected showing a significant reduction in PCE contamination.
- The ERH system is the first of its kind in R7 and consists of multiple 10 inch diameter holes dug 45 feet deep that are filled with steel shot and super-heated by electricity to drive off the

contamination, therefore eliminating the need to do intrusive building demolition and extensive soil excavation and disposal.

- The removal action including site restoration is scheduled to be completed at the site by February 2018.

Tri-Riverfront Site Vapor Intrusion Sampling Results (New Haven, MO)

Key Message: EPA R7 conducted a second round of vapor intrusion sampling to evaluate whether properties near the Riverfront Superfund Site, Operable Unit 4, in New Haven, Missouri have been impacted by PCE/TCE vapors from groundwater contamination at the site.

- Sampling results indicated that one of the residential properties has concentrations of PCE and TCE in the indoor air above levels of health concern.
- EPA will perform additional assessment as needed to determine appropriate mitigation measures, and will perform the actions needed to abate the threat.

HazMat Fire (St. Louis, MO)

Key Message: On November 15, 2017, approximately 80-100 firefighters responded to a fire in a St. Louis warehouse containing 150,000 citronella candles, car seats, and Styrofoam.

- The St. Louis fire department issued recommendations to nearby hospitals and the public to turn off their HVAC systems and to shelter in place.
- EPA OSCs responded to the scene to assess the situation and offer assistance.
- On November 16, 2017, EPA R7 received a Request for Federal Action from the Missouri Department of Natural Resources (MDNR) to collect debris samples from the warehouse fire and analyze for presence of asbestos.
- R7 is coordinating with the City of St. Louis, MDNR's St. Louis Field Office, and our START contractor to collect the samples and obtain analysis.
- The EPA Office of Public Affairs has received media inquiries on the Agency's involvement and is coordinating the EPA response with the City of St. Louis Health Department.
- R7 Counsel is also assisting with property owner and PRP information.

2017 CWA NPDES National Technical Inspector Workshop

Key Message: On November 13 – 17, 2017, EPA R7 hosted the CWA NPDES National Technical Inspector Workshop.

- The workshop was open to EPA, state, tribal and municipal inspectors and included classroom as well as field training at local facilities.
- Presentations include a variety of topics such as interview techniques and notetaking, digital photography, inspection report writing as well as presentations on specific sectors such as CAFOs, industrial dischargers, pre-treatment and stormwater.

Representatives from the National Association of Homebuilders have also been invited to present at the workshop.

Region 8**Hot Issues:****Meeting with Butte PRPs to discuss potential consent decree for priority soils operable unit**

Region VIII recently sent out work plans addressing contaminated soil removal from the Butte site along with related water quality issues that, if agreed to, would form the basis of a consent decree with all PRPs. We hosted a meeting with the PRPs; ARCO, the County, Burlington Northern, Union Pacific along with the State of Montana to go over our proposal. We presented the plan as our best effort to accommodate the needs of all parties while still fulfilling our legal responsibilities. The parties understand the offer expires January 26, 2018 after which we will act unilaterally and order the PRPs to begin remedial work. While the details of our proposal received mixed reviews the process was welcomed by the State of Montana and no party left the table. We will meet again in person on December 6 to address technical issues.

Region 8 Settles Whiting Petroleum Corporations' Clean Air Act Violations on the Fort Berthold Indian Reservation in North Dakota

Key Message: Region 8 is filing an administrative consent agreement to settle Clean Air Act violations of the Federal Implementation Plan (FIP) for Whiting Petroleum Oil and Natural Gas Well Production Facilities located on the Fort Berthold Indian Reservation (Mandan, Hidatsa and Arikara Nation). EPA and Whiting reached a penalty only settlement of \$450,000 for several FBIR FIP violations.

Neuhauser Landfill Site, Erie, Colorado

Key Message: Region 8 is collaborating with CDPHE on a property in Erie, Colorado where CDPHE determined trash and drums of chemicals were buried in the 1960s.

- As an interim action, the EPA Removal Program anticipates signing an Administrative Settlement Agreement and Order on Consent (AOC) with the landowner for removal of the drums of chemicals found so far.
- CDPHE will continue to be the lead agency to determine future requirements for investigation and cleanup of contaminated soils and groundwater.
- There are no known current impacts to nearby residential neighborhoods.
- There may be high community interest and scrutiny in the drum removal since citizens in the area have been concerned about fracking wells in the nearby vicinity. Community Involvement staff from CDPHE and EPA plan on hosting an information session on December 4 before work starts to answer questions and concerns about the interim action work plan and health concerns.

NPDES Enforcement Requests Payments of Stipulated Penalties Totaling \$97,900 from Malteurop, North America for Violations of Hydrogen Sulfide Limits in the Municipal Sewer

Key Message: NPDES Enforcement is sending a letter to Malteurop, North America (Malteurop) that includes a request for payment of stipulated penalties of \$97,900 for violations of hydrogen sulfide limits in the municipal sewer line.

- On April 14, 2014, the EPA and DOJ entered into a consent decree with Malteurop and the City of Great Falls, Montana to resolve pretreatment program violations related to Malteurop's discharge causing the generation of high levels of hydrogen sulfide, a toxic gas, in the municipal sewer.
- EPA directly implements the pretreatment program in Montana, because the state has not sought authorization for this portion of the NPDES program.

- Reports of high hydrogen sulfide levels for this stipulated penalty letter span from January 2016 through early November 2017.

RA/DRA Public / Media Engagements

Trip to Wyoming

20 Nov (Monday), Wyoming Tribune Eagle media engagement, Brian Martin, Editor (on-the-record)

21 Nov (Tuesday), Casper Star Tribune media engagement, Josh Wolfson, Editor (on-the-record)

Upcoming Major Decisions

None

Last Week Highlights:

Redevelopment Event held on November 9 for the Libby Asbestos Operable Unit 5 and Libby Groundwater sites in Libby, Montana:

Key message: EPA Region 8 coordinated a well-received event to help the Lincoln County Port Authority and local stakeholders with a long-term vision and redevelopment plan for a former mill site where two Superfund sites are co-located (Libby Asbestos Operable Unit 5 and Libby Groundwater Site).

- Media coverage so far includes KPAX TV News: <http://www.kpax.com/story/36811308/epa-making-progress-as-they-prepare-to-leave-libby> and the Missoulian: http://missoulian.com/business/james-grunke-cleanup-and-a-can-do-attitude/article_c8be5589-addb-51fa-b67a-49d07a8dd6b8.html; the Daily Interlake, Western News, and the Montanian are also writing stories.

Region 9**Hot Issues:**

Wildfire response: We're making great progress, having completed our assessment/removal of household hazardous waste from 88% of Sonoma County parcels and 83% of Napa County parcels, while taking on additional asbestos remediation work at FEMA's behest in adjoining Lake and Mendocino Counties. The Napa County Board of Supervisors has been most complimentary of EPA's efficiency and accomplishments, a tribute to the great support from all participating Regions. We have 280 people (employees and contractors, including 31 graduates of EPA Brownfields job training programs) working on this response and have expended \$10.5 million to date. On Saturday, I'll join Cong. Calvert and Thompson in Santa Rosa with FEMA and other agencies to provide an update and respond to questions. On Monday, I'll host another meeting of FEMA and Army Corps executives at our command post to address operational issues. Today's heavy rain raises the risk of landslides and downed trees in burned areas.

Anaconda NPL Deferral: I conferred with Nevada's Brad Crowell (Director, Dept. of Conservation/Natural Resources) and Pam Robinson (Gov. Sandoval's office) regarding the status of draft NPL deferral documents regarding the vast Anaconda mine site. I also spoke at length with BP Vice-President Bob Genovese. We are all focused on bringing the draft deferral agreement into final form next week; the EPA and NV teams will meet in Reno to address our remaining issues. EPA, NV and BP/Atlantic Richfield would then meet to align the NV/BP agreement with the EPA/NV deferral document. BP would like to resolve past costs owed to the US at this time. Notable other EPA work to follow includes revising draft MOUs with the two tribes, and closing out earlier EPA/Atlantic Richfield orders.

External Engagements:

Hawaii's Red Hill Fuel Tanks: this vast Navy fuel storage facility in Honolulu is under an EPA consent order to address fuel leaks and protect drinking water. This week, our EPA team met with Navy and State partners, and together briefed the Hawaii Congressional staff on status of current work. We attended the state's Fuel Tank Task Force meeting with local/state elected officials and the Navy to discuss progress under the order, and other similar tanks in Hawaii.

Navajo Nation: As we continue our extensive program to address Navajo Nation abandoned uranium sites, NN President Begaye is seeking "a more robust relationship" with Reg. 9 over the sites and funding, particularly use of the Tronox settlement funds. He is formally seeking annual consultation as our multi-year plan is implemented. While we have very frequent engagement with NN in conducting this work, we are preparing a reply with input from Reg. 6 (as some sites in New Mexico are referenced) and will plan for more formal consultation. Concurrently, the Office of Inspector General is gathering data re EPA's methods for prioritizing cleanup of 50 abandoned uranium mine sites, and how we allocate the special-account funds.

Past Week's Highlights:

Diesel truck settlement: We announced settlements with Wal-Mart Transportation and the US General Services Administration regarding their failure to upgrade hundreds of heavy-duty trucks to meet California's Truck and Bus Regulation. The state had asked for our assistance in these cases, as

about 625,000 trucks are registered outside California but operate in-state. Older trucks emit higher levels of particulate matter and nitrogen oxides in our most polluted air basins. In addition to paying \$585K in penalties, one supplemental environmental project will install air filtration systems in some Los Angeles schools, which remove 90% of ultra-fine particulates and black carbon in classrooms near heavily travelled freeways.

Region 10**Hot Issues:**

Drinking Water Testing Continues at Whidbey Island Naval Air Station, Oak Harbor, WA: The Navy recently resampled private drinking water wells at homes adjacent to Naval Air Station Whidbey Island and the Outlying Landing Field (OLF) that previously exceeded EPA's lifetime health advisory for PFOA or PFOS. Adjacent properties were also sampled when possible, to evaluate whether the contamination is moving over time. The preliminary results appear consistent with past results, although one of the new sample locations exceeded the LHA for PFOA (around 200 ppt). This home, south of the OLF, was near others with results over the LHA. The Navy has provided them with bottled water. The Navy met with homeowners whose wells tested above the LHA to discuss interim solutions for supplying water.

Pending Decisions:

Public Notice of Draft Wastewater Permits for the Cities of Franklin and Pierce, Idaho: Region 10 is releasing two draft Clean Water Act NPDES permits for the City of Franklin and the City of Pierce, Idaho for 30-day public review and comment periods. The permit for Franklin would continue to authorize the discharge of pollutants from the city's wastewater treatment facility to the Cub River. The permit for Pierce would continue to authorize the discharge of pollutants from the city's wastewater treatment facility to Orofino Creek, which is a tributary of the Clearwater River. The City of Pierce permit was drafted by Idaho DEQ staff as part of a joint capacity development project between EPA and the State of Idaho to assist the state as it moves toward taking on the permitting program.

Federal Register Notice for Voluntary Transfer of Idaho's Class II Underground Injection Control Well Program to EPA: EPA Headquarters has confirmed a Federal Register Notice will publish on Monday, November 27th, initiating a 45-day public comment period for the voluntary transfer of Idaho's Class II UIC well program to EPA. The proposed notice will be posted on EPA's website and in area newspapers on the 27th and stakeholders will be notified prior to publication. Region 10 has been coordinating with Idaho state agencies and we will provide an informational presentation at the Idaho Oil and Gas Commission meeting on December 7th with the Idaho Departments of Water Resources, Lands and Environmental Quality. EPA will also host a required public hearing during the comment period on January 8th.

Upcoming Public Events:

Upper Blackfoot Collaborative Annual Meeting (Idaho): On November 20th, Region 10 will participate in the Annual Meeting of the Upper Blackfoot Collaborative (UBC). The UBC has been a multi-year project that has brought together state and federal agencies, mining companies, and environmental groups, to do voluntary work to improve aquatic habitat, fish passage and water quality in the Blackfoot River and tributaries. Most of the projects are funded by the mining companies, but other funding sources (including Clean Water Act 319 funds) have been used to address grazing impacts, irrigation diversions, riparian restoration and more. The Annual Meeting will provide project status updates, and solicit input from the partners on priority setting for projects in the coming year.

Pesticide Implementation Grants Awarded to Region 10 States: On December 5th Region 10 will announce via a region-wide news release \$1.7 million in grants to State Agriculture Departments in the Pacific Northwest and Alaska to support statewide pesticide regulation. The grants empower states to ensure that pesticides are used properly and according to the label, protect workers and nearby neighborhoods from accidental exposure and reduce environmental risk to agricultural lands.

Last Week Highlights:

Region 10 Expedites PCB Removal at Two Military Installations in Alaska: Using the PCB FAST Toolbox, a LEAN tool, Region 10 approved the cleanup and disposal of PCB contaminated soil and concrete at two military bases in Alaska. At Joint Base Elmendorf Richardson in Anchorage, a power plant coated in PCB contaminated paint released PCBs into the soil surrounding the building. Hot spot removal of a few limited areas of contaminated soil are necessary prior to demolition. This approval paves the way for future remedial actions in order to return the site to beneficial use. The approval was issued 12 days after receipt of the complete application. At Clear Air Force Station in Fairbanks, Region 10 approved the cleanup and disposal of PCB contaminated concrete in eight days which will pave the way for construction of a new radar system.

Wyckoff Superfund Site (WA): The Region 10 Dive Team inspected the Wyckoff Superfund Site's underwater cap on November 15 and 16. The dive was to investigate three unknown objects detected by LiDAR and assess any damage to the cap. An inspection of four "No Anchor" buoys was also conducted. One buoy was reported to have slipped its anchorage and will be reattached if necessary.

Salish Sea Statement of Cooperation Action Plan Signed (WA): Region 10 and Environment Canada finalized the 2017-2021 update of the EPA-ECCC Puget Sound-Georgia Basin (Salish Sea) Ecosystem Action Plan. This Action Plan identifies activities intended to foster stronger cross-border information-sharing on issues such as water quality, environmental review and major federal ecosystem initiatives. Action Plans are developed and periodically updated by a standing Working Group, chaired by EPA and ECCC staff, established under EPA and ECCC's "Joint Statement of Cooperation on the Puget Sound-Georgia Basin Ecosystem," which has been in place since 2000. Working Group advisory members include Washington Department of Ecology, British Columbia Ministry of Environment, Northwest Straits Commission, Puget Sound Partnership, and Coast Salish Gathering representatives.

Region 10 Supports Regions 2 and 9 in Wildfire and Hurricane Response Efforts: Region 10 is proud to continue supporting the critical response efforts underway in Puerto Rico and California. To date nearly 25 Region 10 staff have deployed to assist in technical, community involvement and public information capacities. We expect to lend more support in the coming weeks.

Discharge Permit Issued to Support Midnite Mine Superfund Site Cleanup (WA): On November 15, 2017, EPA signed the final NPDES permit for the new water treatment plant at the Midnite Mine in Wellpinit, Washington which authorizes the discharge from a new treatment plant being constructed under the Superfund Record of Decision for this uranium mine cleanup. The facility will discharge to the Spokane Arm of Lake Roosevelt within the Spokane Tribe of Indians Reservation. The Spokane Tribe's Water Control Board provided EPA with a final Clean Water Act 401 Certification to accompany the permit.

Office of Administration and Resources Management

Hot Issues:

Title Changes: OARM Senior Management

In accordance with the Federal Vacancies Reform Act of 1998, effective Friday, November 17, 2017, Donna J. Vizian is OARM's Principal Deputy Assistant Administrator and John Showman is the Acting Deputy Assistant Administrator.

Mandatory training

OARM uploaded the content of the FY '18 approved mandatory training courses into employee's training plans. Courses are available immediately and should be completed no later than September 30, 2018.

Contingency Planning

OARM is coordinating the update of the agency's list of excepted and shutdown personnel. The government is currently funded thru Friday, December 8, 2017. In the event there is a lapse in funding, OARM, OCFO, and OGC will work with the Administrator's office to implement our contingency plan for a shutdown. Updated lists are due to OARM no later than COB Monday, November 27, 2017.

Upcoming Public Events:

None

Upcoming Major Decisions:

None

Last Week's Highlights:

Visit to the Hill

On Wednesday, November 15th, OARM's Acting Assistant Administrator accompanied members of the Administrator's office and OCFO to Capitol Hill to discuss some potential EPA reorganizations with key congressional staff members.

Office of Air and Radiation**Hot Issues and Important Deadlines:**

- **Tracking SIP Actions:**
 - Total Number of SIPs submitted to Regions in FY 2018: 21
 - Total Number of SIP Submittals with Final Action taken by the Regions in FY 2018: 11
 - Total Number of Backlogged and Non-backlogged SIPs: 669
 - Backlogged: 511
 - Non-backlogged: 158
- **OAR actions under review at OMB:**
 - Municipal Solid Waste (MSW) Landfills New Source Performance Standards (NSPS) and Emission Guidelines (EG) – Stay Notices
 - Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area Classifications Approach – Supplemental Proposal
 - Greenhouse Gas Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units (Advance Notice of Proposed Rulemaking)
 - Renewable Fuel Volume Standards for 2018 and Biomass-Based Diesel Volume (BBD) for 2019
- **Point of Obligation:** Soon we are planning to announce our response to a petition requesting that we move the point of obligation for compliance under the Renewable Fuel Standards (RFS) program.

State Implementation Plan (SIP)-Related Actions:

- The Regions report that the following 9 SIP-related actions was signed this week:
 - **Region 3: Withdrawal Notice** - NNSR Program certification for the 2008 Ozone NAAQS for the Baltimore MD, Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE and the Washington DC-MD-VA nonattainment areas, Revision 17-01
 - **Region 3: Withdrawal Notice** - 2011 Base Year Emissions Inventory - Baltimore - 2008 Ozone NA Area – MD
 - **Region 6: Proposed Rule** - Arkansas Multipollutant Infrastructure SIP
 - **Region 7: Withdrawal Notice** - IA-160; 2010 SO₂ Infrastructure SIP (except prongs 1, 2, and 4)
 - **Region 7: Withdrawal Notice** - NE-088; 110(a) Infrastructure 2010 NO₂ (except prong 4)
 - **Region 7: Withdrawal Notice** - NE-097; PM 2.5 2012 Infrastructure SIP (all elements except prongs 1 and 2, and 4)
 - **Region 7: Withdrawal Notice** - NE-089; 110(a) Infrastructure 2010 SO₂ (except prongs 1, 2, and 4)
 - **Region 7: Withdrawal Notice** - KS-113; Construction Permits and Approvals - Applicability and Fees
 - **Region 7: Withdrawal Notice** - IA-156; 2010 NO₂ Infrastructure SIP (except prong 4)

Upcoming Meetings, Public Events, or Other Public Releases:

- **Montreal Protocol Meetings:** On November 20-24, EPA staff will participate as members of U.S. delegations and as co-chairs at the Joint 11th Conference of the Parties (COP) to the Vienna Convention and the 29th Meeting of the Parties (MOP) to the Montreal Protocol on Substances that Deplete the Ozone Layer.
- **Clean Power Plan (CPP) Public Hearing:** EPA will hold a public hearing on the proposed repeal of the CPP in Charleston, WV on November 28-29, 2017.

- **Glider Public Hearing:** EPA will hold a public hearing on the proposed repeal of emission requirements for glider vehicles, glider engines, and glider kits in Washington, DC on Monday, December 4, 2017.

Upcoming Decisions:

- **For Administrator's Signature – Revisions to Testing Regulations for Air Emission Sources:** In this rule we are proposing editorial and technical corrections to regulations that require source testing of emissions. (This is a routine "clean-up" action that we have done several times in the past – most recently in August 2016). The package is with OP for review.
- **For Administrator's Signature –Protection of Stratospheric Ozone: Revision to References for Refrigeration and Air Conditioning Sector to Incorporate Latest Edition of Certain Industry, Consensus-based Standards:** This direct final rule and parallel proposal will modify the use conditions required for use of three flammable refrigerants in new household refrigerators, freezers, and combination refrigerators and freezers under the Significant New Alternatives Policy (SNAP) program. The use conditions are being revised to reflect an updated standard from Underwriters Laboratories (UL) that is incorporated by reference. The package is with OEX for signature.
- **For Administrator's Signature – Air Quality: Revision to the Regulatory Definition of Volatile Organic Compounds:** This proposed rule will add cis-1,1,1,4,4,4-hexafluorobut-2-ene to the list of compounds excluded from the regulatory definition of volatile organic compound (VOC) on the basis that this compound makes a negligible contribution to tropospheric ozone formation. The package is with OP for review.
- **For Administrator's Signature – New York State Implementation Plan submittal addressing Regional Haze and Revision of Best Available Retrofit Technology Determination for the Danskammer Generation Station Unit 4:** In conjunction with the final SIP approval, this action also will withdraw portions of the Federal Implementation Plan (FIP). The package is with OP for review.
- **For Administrator's Signature – Notice of Proposed Withdrawal of the Control Techniques Guidelines for the Oil and Natural Gas Industry:** This proposed notice of availability will solicit comment on the withdrawal of the Control Techniques Guidelines (CTG) for the oil and natural gas industry. The package is with OP for review.

Office of Chemical Safety and Pollution Prevention

Important Deadlines:

TSCA New Chemicals Determinations				
Row	Determination Type	Pending on 11/13/2017	Determinations Completed ¹ as of 11/13/2017	Determinations Posted on the Website as of 11/13/2017
1	# of "not likely" determinations	1	105 ⁴	105 ⁴
2	# of §5(e) Orders signed by both EPA and the submitter	-	289	289
3	# of §5(e) Orders signed by EPA and awaiting submitter signature	72	-	-
4	# of non-Order SNURs/"not likely" determinations	0	0	0
5	# of cases in post-FOCUS final determination development ⁵	290 ^{3, 5}	-	-
6	# of cases flagged for in-depth review	54	-	-
7	# of PMNs, SNUNs and MCANs awaiting FOCUS (within 90-day review)	31	-	-
8	# of LVE/LOREX exemption grants	-	475	475
9	# of LVE/LOREX exemption denials	-	105	94
10	Total number of cases	448	974	-
11	Normal active workload for the New Chemicals Program	300	-	-
12	Number of cases undergoing testing or data development by submitter	79 ³	-	-
13	Backlog²	69	-	-

¹"Determinations Completed" means that EPA has completed its reviews on these cases and that final determinations have been made by EPA under TSCA section 5(a)(3).

² (Total number of cases) – (Normal active workload for the New Chemicals Program) - (Number of cases undergoing testing or data development) = Backlog

³ Of these cases, approximately 73 are "active" lung toxicity cases that are suspended while submitters conduct testing to develop data on pchem properties and toxicity.

⁴ "Not Likely" determinations are not posted until the final signed determination document is prepared and has been shared with submitter.

⁵ These cases are those for which Post-FOCUS work is underway to develop: not likely determinations; non-Order SNURs coupled with not likely determinations; or section 5(e) or 5(f) Orders. When the OPPT Office Director decides which of these regulatory paths to follow, the case is moved to: Row 3 when the section 5(e) or 5(f) Order is sent to the submitter or signature; Row 4 when the SNUR is published; and Row 1 when the determination document is sent to the OPPT OD for signature.

Upcoming Meetings and Public Events:**National Academies of Sciences (NAS), Engineering, and Medicine Workshop November 20.**

Two OCSPP senior managers will be presenting at the NAS workshop “Understanding Pathways to a Paradigm Shift in Toxicity Testing and Decision Making.” Dr. Stan Barone, Acting Director of OCSPP’s Office of Science Coordination & Policy (OSCP) will be presenting on “Decision Making Within Endocrine Disruptor Screening Program: A Conversation on Replacing the Uterotrophic Assay.” Dr. Anna Lowit, Senior Science Advisor in Office of Pesticide Programs (OPP) will also be presenting on “Interagency Coordinating Committee on the Validation of Alternative Methods Processes to Incorporate Data from Alternative Toxicity Testing Methods into Decisions About Screening, Prioritization, Risk Assessment.” The workshop is open to the public and the press.

FIFRA Scientific Advisory Panel (SAP) Meeting, November 28-30. The topic for the upcoming SAP meeting is “the Continuing Development of Alternative High-Throughput Screens to Determine Endocrine Disruption, Focusing on Androgen Receptor, Steroidogenesis, and Thyroid Pathways.” The FIFRA SAP is a FACA committee and is open to both the public and the press.

Inventory Reporting Webinar, November 29. EPA scheduled three webinars to assist the regulated community with reporting under the TSCA Inventory Notification (Active-Inactive) Rule, published in the Federal Register on August 11, 2017. This rule requires industry to report chemicals manufactured or imported in the U.S. over the past 10 years. Each identical webinar will include an overview of reporting requirements, a demo of the electronic reporting application (Central Data Exchange (CDX)), and will provide time for questions and answers. The first webinars occurred on September 27 and October 25, 2017. The remaining webinar is scheduled for 1-3 PM EDT on November 29, 2017.

Last Week Highlights:

International Chemical Management Conferences November 9- 14. OCSPP Deputy Assistant Administrator Nancy Beck traveled to Taiwan and Japan for two international chemical management conferences from November 9-14. In Taiwan, Dr. Beck attended the International Chemical Management Conference as a keynote speaker presenting on TSCA implementation and participated in a panel discussion at the EPA Taiwan Toxics & Chemical Substances Bureau HQ. In Japan, she attended the Seminar & Workshop on the Latest Trends in Chemical Substances Management.

Washington State Potato Commission, November 15. OPP managers met with representatives from the Washington State Potato Commission to discuss numerous topics, including: buffer analysis for risk prevention, risk assessment to pollinators, revisions to EPA’s certification of pesticide applicators rule, and registration updates for various chemicals.

Treated Wood Council Annual Meeting, November 16. Representatives from OPP’s Antimicrobials Division presented at the Treated Wood Council’s annual meeting in Alexandria, VA on the agency's registration review process, status of wood preservative chemical cases, and the need for registrants to amend their EPA registered product labels that have wood preservative uses to appropriately reference American Wood Preservative Association standards.

Office of the Chief Financial Officer**Hot Issues:**

- The Senate Appropriations Subcommittee on Interior, Environment and related Agencies has announced that they will not have a markup but instead will issue a Chairman's mark next week that will provide the bill and report. With the current Continuing Resolution, which provides funding to federal agencies, set to expire on December 8, there are reports that Congress is considering a second CR that will allow Congress to complete action on FY18 by the end of this calendar year.
- OMB will transmit a supplemental funding proposal to Congress tomorrow (November 17). This package will not include recovery funds for Puerto Rico and US Virgin Islands. Additional data requests related to Puerto Rico, US Virgin Islands and California wildfires from OMB or Congress could be forthcoming as they work on additional supplemental funding proposals. To date, EPA has received 42 mission assignments/agreements from other federal agencies for a total of \$142 million to support disaster responses, including \$51 million to support the California wildfires, all of which is in addition to EPA's base appropriated funding.

Upcoming Public Events:

N/A

Upcoming Major Decisions:

- Senior Leader review of public comments on draft *FY 2018-2022 EPA Strategic Plan* is extended from November 17 to November 21 to accommodate review of 4 additional sets of comments from the EPA docket. The universe of public comments for senior leader review is approximately 57 comment submissions of the 25,000 received. Senior Leader proposed revisions, consistent with instructions provided, will be consolidated into one document for Policy Team review in early December.
- OCFO will brief the Chief Operating Office and Acting Deputy Administrator on November 21 on results of senior leader ranking of top enterprise risks submitted November 3 and proposed next steps.
- As follow up to the COO November 1 email to senior leaders, the COO is scheduling meetings in November/early December to discuss NPM/Lead Region proposals for ambitious targets for Strategic Measures and Agency Priority Goals. This next step will be critical in finalizing *FY 2018-2022 EPA Strategic Plan*. The goal is to reach final agreements on targets by December 8, for inclusion in final draft *Plan* due to OMB on December 22. Meetings currently scheduled are:
 - November 20 - Goal 3/Objective 1.3 with OLEM and Regions 1 and 3
 - November 20 - Goal 3/Objective 3.5 with OARM/OCFO and Region 10
 - November 27 – Goal 3/Objective 3.3 with ORD/Region 4
- OP and Region 8's meeting planned for November 17 is being rescheduled. Remaining meetings are in the process of being set up.
- OCFO has commenced pre-planning for the FY 2018 Interim Operating Plan budget and will meet with the Acting DA, COO, and Chief of Staff after Thanksgiving to discuss. Once Congress passes a final appropriation bill, EPA has 30 days to create and submit the Operating Plan to Congress, after getting Policy Team and then OMB approval.

Last Week Highlights:

The agency achieved an unmodified opinion (“Clean Opinion”) in the OIG auditor’s report on FY 2017 and FY 2016 Consolidated Financial Statements. This marks the 18th consecutive year the EPA has achieved this top measure of financial management success. The audit report is included in the FY 2017 Agency Financial Report, which was submitted to the President, Congress, and GAO and made available to the public as required on November 15. The AFR includes management’s discussion and analysis of FY 2017 activities, along with financial statements, key management challenges, and other additional information.

Other:

With many planning leave next week for the Thanksgiving holiday, OCFO encourages all offices to make arrangements to ensure that all timecards are submitted and approved in PeoplePlus, the agency’s time and attendance system, by November 24 to ensure no delay in pay.

Office of Congressional and Intergovernmental Relations

Upcoming Events and Important Deadlines:

- **November 20** – SEPW staff briefing on TSCA new chemicals w/OCSP
- **November 20** – Senator Udall (NM) staff briefing on PRIA w/OCSP
- **Week of November 27** - Follow up call with Senators Schatz/Cardin/EPW staff on Clean Water Rule
- **November 29** - HOCR Hearing on Regulatory Reform

Past Week Accomplishments:

- **November 14** - the Senate Subcommittee on Clean Air and Nuclear Safety will held a subcommittee hearing entitled, “Legislative Hearing on S. 1857, S. 203, S.839 and S. 1934
- **November 14** – House Energy and Commerce, Subcommittee on Environment held hearing – Hurricane Response Activities. EPA Witnesses: Region 2 Administrator Pete Lopez, Region 4 Administrator Trey Glenn, and Acting Region 6 Acting Administrator Sam Coleman.
- **November 15** – National League of Cities convened its Annual City Summit in Charlotte, NC November 15 – 18. NLC touts this as the largest national conference for all city leaders – elected, appointed, and staff. Over 3,500 local leaders are expected.
- **November 16** – House Science, Space and Technology briefing to discuss IRIS RFCs
- **November 16** – Congress McMorris Rodgers briefing on pesticides registration
- **November 16** – Coordinated Introductory Hill meetings with Regional 3 Administrator Cosmo Servidio
- **November 17(tentative)** – Expect to rollout the Administrator’s final decision on the petition request to move the “point of obligation” from refiners and importers to blenders under the Renewable Fuel Standard program

Ongoing activities:

- **FY18 Appropriations:** A short-term continuing resolution to keep the government running past a Dec. 8 deadline is being discussed as negotiations on fiscal 2018 spending levels have yet to conclude. There may be a chance that other legislative riders will be tacked on to a year-end spending bill.
- **Hurricane Response:** Participating in responses to hurricanes Irma and Maria. Coordinating with state and local elected officials to ensure seamless communications.
- The draft FY 2018-2022 Strategic Plan was released for public comment on October 4. OCIR has two longer-term Strategic Measures which are reflected in the new Strategic Plan and will be working on reporting annual results on these Measures to the Agency’s Senior Leadership. OCIR is reviewing comments received in order to release the final Strategic Plan to Congress in February 2018.

Office of Enforcement and Compliance Assurance**Hot Issues:**

Sentencing in Terminix FIFRA Criminal Case: Terminix is scheduled to be sentenced in federal court in the U.S. Virgin Islands on November 20, 2017, for violations as a result of a pesticide application that poisoned a vacationing family. In March 2015, two employees of the company performed a fumigation pesticide treatment at a resort in St. John, U.S. Virgin Islands without taking precautions required for the product. Methyl bromide from the application migrated to an upper unit, causing serious injury and hospitalization of the entire family. On March 23, 2017, Terminix pled guilty to four counts of violations of the Federal Insecticide, Fungicide, and Rodenticide Act (Use of a Registered Pesticide in a Manner Inconsistent with its Labeling). The case was investigated by EPA's Criminal Enforcement Division, working cooperatively with EPA Region 2, the government of the U.S. Virgin Islands, and the Agency for Toxic Substances and Disease Registry.

Criminal sentencing for Illegal Disposal of Waste into Water System: On Monday, Nov. 20, the defendant in a CWA case in Idaho is scheduled to be sentenced for illegally disposing of waste into the local water system. Under the guise of being the owner of Sawtooth Fusion, a purported medical research company, James Findlay obtained, processed, and stored depleted uranium and uranium powder. He contaminated three Boise-area sites with radioactive materials, and three of them became EPA emergency response sites, the clean-up of which cost EPA's Emergency Response Branch in excess of \$600,000. Findlay also used muriatic acid to extract uranium from various items, and subsequently discharged the waste to the Boise sewage treatment facility in violation of the pretreatment requirement that discharges not exhibit a pH of less than five.

Upcoming Events/Public Meetings

On November 17th, the Director of OECA's Water Enforcement Division will moderate a panel at the National Association of Clean Water Agencies National Water Enforcement Workshop in Savannah, Georgia. The panel, which will focus on working with EPA and States, includes representatives from EPA Regions 4 and 7, as well as representatives from the New York State Department of Environmental Conservation and the Georgia Department of Natural Resources.

On November 28th, Patrick Traylor, OECA Deputy Assistant Administrator, will provide a keynote speech at the 2017 Oil & Gas Environmental Conference in Houston, Texas. Patrick will speak about enforcement priorities.

Upcoming Major Decisions:

None.

Last Week's Highlights

Federal Facilities Enforcement Program Meeting with Federal Environmental Managers: Representatives from OECA's Federal Facilities Enforcement Office met this week with the inter-agency group of federal facility environmental managers and auditors managed by the Corps of Engineers. OECA staff provided updates on a variety of matters, including the Administrator's strategic plan, and the Superfund Task Force Recommendations, and conducted a demonstration of

ECHO and how federal agencies can use it to help monitor their facility compliance. Additionally, they sought input from attendees on areas where federal agencies would like to see more compliance assistance or capacity building.

Federal Facilities Enforcement Program Meeting with DOD on Task Force Recommendations:

Management and staff in OECA's Federal Facilities Enforcement Office attended the Federal Facilities Leadership Council (FFLC) meeting in San Francisco this week. The FFLC is comprised of EPA Superfund counsel and programmatic staff from Regions and Headquarters, the Office of General Counsel, as well as the OECA and OLEM federal facilities programs. One day of the meeting was set aside to meet with DOD and its services to discuss the Superfund Task Force recommendations, and solicit their comments and input on these recommendations. Task Force recommendations on dispute resolution, FFA/third-party cleanups and collaboration in particular impact the federal facility clean-up community, and these were the primary area of discussion. OECA and OLEM will use DOD's input as it moves forward in recommendation development and implementation.

Office of Environmental Information

Hot Issues: None

Upcoming Public Events: None

Upcoming Major Decisions: None

Last Week's Highlight:

OEI's Office of Information Management Distributes TRI Reporting Year 2016 National Analysis Data

- **Brief description:**
 - On October 18, OEI publicly released the final reporting year (RY) 2016 Toxics Release Inventory (TRI) data that will be used for the TRI National Analysis.
 - Note: RY 2016 ran from January 2017 through July 2017. It usually takes 60-90 days to analyze, compile and release the TRI reporting year national analysis data.
 - The OIM/Information Exchange Partnership Branch (IEPB) has been distributing the data to several external partners including the U.S. Navy, Department of Defense (DOD), National Library of Medicine at the National Institute of Health (NIH), Right to Know Network (supported by the Houston Chronicle) and the International Pollutant Release and Transfer Registry (PRTR) maintained by the Japanese Ministry of the Environment.
- **Who benefits or cares:** EPA, EPA's external partners and their communities
- **Why this is important:** Various groups request the data every year to ingest into their data systems, disseminate to their user communities and integrate into their reports or publications.
- **Additional information:**
 - Additionally, OEI has distributed this data to several EPA offices, including Office of Chemical Safety and Pollution Prevention (OCSPP) and Office of Research and Development (ORD), as well as several states.

EPA's Chief Data Scientist Recognized by FedScoop

- **Brief description:**
 - On November 1, FedScoop and the Scoop News Group celebrated the FedScoop 50 to highlight significant achievements of leaders in the federal IT community.
 - OEI's Robin Thottungal, EPA's chief data scientist, was selected as one of the FedScoop 50 in the category of Federal Leadership.
- **Who benefits or cares:** Federal agencies, EPA
- **Why this is important:** FedScoop 50 celebrates the top 50 leaders in government technology who have made a significant impact in the last year.
- **Additional information:** <https://www.fedscoop.com/meet-2017-fedscoop-50-winners/>

Office of General Counsel**New Judicial Decisions:**

- On November 11, 2017, we received an adverse decision from U.S. District Court for the D.C. allowing environmental groups who had unsuccessfully challenged EPA's approval of Maryland's 2012 303(d) list to amend their Complaint and bring their claims instead against EPA's approval of Maryland's 2016 303(d) list. Specifically, Plaintiffs argue that EPA improperly delisted waterbody segments that received TMDLs through the Chesapeake Bay TMDL process because they also required "local TMDLs." The Court had rejected their claims as moot because EPA subsequently reiterated its approval (with a more robust record) in later listing actions. (*Blue Water Baltimore, et al. v. Pruitt*, No. 16-452)
- On November 7, 2017, the U.S. Court of Appeals for the Tenth Circuit issued an order denying petitions for rehearing en banc filed by the Northern Arapaho and Eastern Shoshone Tribes (the Tribes) in a case involving a challenge to EPA's decision approving the Tribes' application under the Clean Air Act for treatment in a similar manner as a state for the purpose of administering certain grant and other non-regulatory functions under the statute. The principal issue raised in the case was a challenge to EPA's determination regarding the boundary of the Tribes' Reservation. In February 2017, a split panel of the Tenth Circuit found that the Reservation's boundaries had been diminished by Congress in a 1905 statute opening the Reservation to non-Indian settlement, and vacated EPA's determination to the contrary. The Tribes – who are intervenors in the case – filed timely petitions for rehearing en banc arguing that the majority decision conflicted with applicable Supreme Court law governing such reservation boundary issues, as well with the Tenth Circuit's own precedent and precedent from another circuit court. Although the court denied the Tribes' request for rehearing en banc, the judges in the panel majority determined that amendment of the original opinion was warranted. The panel therefore granted sua sponte panel rehearing in part and provided a revised decision. A revised dissenting opinion will also be filed. The revised majority decision includes certain targeted language changes. It does not alter the outcome of the case, and it is unlikely that the revisions will address the principal legal concerns raised in the Tribes' rehearing petitions. (*Wyoming v. EPA*, Nos. 14-9512 & 14-9514)

New Complaints Filed:

- On November 14, 2017, pro se defendant Kristine Yates filed a complaint against the EPA, the State of Oregon, and several renewable energy companies in district court. The complaint alleges that construction to the north of her property is causing environmental harm. There are nine counts, which allege violations of free speech, civil rights, torts, RCRA, and racketeering. (*Yates v. EPA, et al.*, No. 6:17-cv-01819-AA)
- On November 16, 2017, the Idaho Conservation League (ICL) filed a complaint against the EPA in district court alleging that EPA has unlawfully withheld or unreasonably delayed responding to ICL's March 2015 petition requesting that EPA disapprove and revise a State-issued TMDL that EPA had approved in 2004. Oregon and Idaho had issued TMDL to address nutrient pollution in the Hells Canyon reach of the Snake River and ICL's petition requests EPA action based on new information. The complaint argues that EPA's two-and-a-half-year delay in responding to the petition violates the APA, seeks an order directing EPA to respond, and seeks attorney fees and costs. (*Idaho Conservation League v. Pruitt, et al.*, No. 1:17-cv-472)

- FOIA litigation concerning a FOIA request (HQ-2017-011741) was submitted by the Chesapeake Bay Journal. The FOIA request contains three parts for records concerning: (1) the Chesapeake Bay Journal, (2) a January 20, 2016 grant awarded to Bay Journal Media, and (3) changes in priorities for the Chesapeake Bay Program. The request provided the following as custodians: Scott Pruitt, Ken Wagner, John Konkus, Cecil Rodrigues, John Armstead, and Diane Esher. The request is assigned to the Office of the Administrator, Office of Public Affairs. The complaint alleges that EPA failed to respond to the FOIA request. (*Bay Journal Media, Inc. v. EPA*, No. 1:17-cv-2441)

Hot Issues:

- The first notices to affected regulated entities and states were sent out this week. If you would like more information on the specific case, please contact Kevin.
- OGC welcomed Marcella Burke as our newest Deputy General Counsel.

New Petitions that OGC is Aware Of:

- The Environmental Defense Fund, on behalf of a number of organizations, requested that EPA make public all annual compliance reports submitted by operators of oil and natural gas facilities to EPA under 40 C.F.R. Part 60 Subpart OOOOa. They also requested an extension of the period for public comment on EPA's November 8, 2017, notices of data availability on Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources: Stay of Certain Requirements, 82 Fed. Reg. 51,788 (Nov. 8, 2017), and Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources: Three Month Stay of Certain Requirements, 81 Fed. Reg. 35,824, (collectively, "the NODAs") for at least 90 days after those reports are made available.

Upcoming Public Events & Important Meetings in the Next Two Weeks:

- Kevin Minoli, Acting General Counsel, will be out of the office from November 22 through November 27. On Monday November 27th he will visit two environmental law classes at Vermont Law School.

Upcoming Major Deadlines in the Next Two Weeks:

- 11/17 Production of documents is due in *Center for Biological Diversity v. EPA*, a FOIA matter that concerns two FOIA requests seeking correspondence to or from Scott Pruitt as well as calendars and other things.
- 11/17 Mediation meeting with magistrate is scheduled in *Ellis v. Keigwin*, FIFRA and ESA challenges to clothianidin and thiamethoxam registrations.
- 11/17 Answer or Responsive Motion is due in *Friends of Animals v. Pruitt*, a challenge to EPA's denial of petition seeking initiation of a "Special Review" of the pesticide ZonaStat-H, a horse contraceptive.
- 11/19 Answer due in *Environmental Integrity Project v. EPA*, a FOIA litigation concerning a request that sought records of Scott Pruitt's meetings with outside parties.

- 11/20 EPA's Brief is due in *National Environmental Development Association's Clean Air Project v. EPA*, a petition for review of the Regional Consistency Regs.
- 11/20 Oral Argument in *Utility Solid Waste Activities Group v. EPA*, a challenge to final CCR rule filed by coalitions of industry and environmental groups.
- 11/20 EPA must file its Response to the Motion for Clarification of Mandate in *Waterkeeper Alliance, et al. v. EPA*.
- 11/22 Cross Motion for Summary Judgment due in *State of Connecticut v. EPA*, where plaintiff alleges EPA failed to grant or deny section 126 petition filed by Connecticut regarding Brunner Island Steam Electric Station in York County, Pennsylvania.
- 11/22 Supplemental Brief on jurisdictional questions is due in *New Mexico v. EPA, et al.* and *Navajo Nation v. EPA, et al.*, litigation stemming from the Gold King Mine incident.
- 11/22 Response to motion for attorneys' fees due in *NRDC, et al. v. EPA*, litigation involving the NanoSilva registration.
- 11/22 Response Brief is due in *Cahaba Riverkeeper, et al. v. EPA*, a challenge to EPA R4's denial of petition to withdraw Alabama's NPDES permitting program.
- 11/22 Answer due in *Spokane Riverkeeper v. EPA*, an NGO challenge to EPA's approval of the State of Washington's bacteria, turbidity and temperature TMDL for Hangman Creek.
- 11/22 File Response to Motion to Consider New Information due in *City of Taunton v. EPA*.
- 11/22 Status Report on Mootness due in *Upper Missouri Waterkeeper v. EPA*, litigation on EPA action on Montana's 2017 revised multiple discharger variance for nutrients.
- 11/27 Motion to Transfer due in *Clean Water Action v. Pruitt*, a protective petition of steam electric postponement rule.
- 11/27 Motion to Dismiss or Answer due in *Massachusetts Rivers Alliance, et al. v. EPA*, a challenge to EPA's APA section 705 postponement of effective date of MA small MS4 general permit from July 1, 2017, to July 1, 2018.
- 11/27 Certified Index and dispositive motions due in *EDF v. EPA*, a challenge to the TSCA inventory reporting rule.
- 11/28 A hearing on Defendant's Motion for Summary Judgment, Plaintiff's Cross Motion for Summary Judgment, Motion to Amend and Motion for Discovery is scheduled in *Hall v. EPA*, a matter concerning a FOIA request that sought records regarding presentations made by two EPA officials in 2013 and 2014 discussing the Eighth Circuit *Iowa League of Cities v. EPA* decision.

- 11/29 Reply to cross-motion to terminate the Consent Decree is due in *National Parks Conservation Association, et al. v. EPA*, a complaint alleging EPA's failure to perform a non-discretionary duty to issue regional haze FIPs for 39 states for which it made a finding of failure to submit, and to take action on 10 regional haze SIPs.
- 11/29 Sign a notice of final rulemaking to take action on an outstanding SIP submittal for Delaware OTR for NOx RACT for Major Sources and VOC RACT for Major Sources pursuant to a Consent Decree in *Center for Biological Diversity, et al. v. EPA*, a deadline suit for failure to submit and failure to act on 1997 & 2008 ozone attainment SIPs.
- 11/29 EPA's Appellee brief is due in *Hall & Associates v. EPA*, a FOIA matter regarding FOIA requests that sought information about an EPA Clean Water Act determination to impose an effluent limitation for total nitrogen on certain New Hampshire publicly-owned treatment works.
- 11/30 Motions to Govern due in *Center for Biological Diversity, et al. v. EPA*, a deadline suit brought by environmental group to address EPA's obligation to finalize a determination of attainment by the attainment date for Philadelphia and Washington DC for the 2008 ozone NAAQS.
- 11/30 Reply Brief is due in *State of Delaware Department of Natural Resources & Environmental Control v. EPA*, a petition for review of EPA's final action entitled, "Extension of Deadline for Action on the November 28, 2016 Section 126 Petition from Delaware."
- 11/30 Hearing on Motion for Summary Judgment and Motion for Summary Judgment due in *Community In-Power and Development Association, et al. v. EPA*, where plaintiffs' allege EPA failed to issue standards or final residual risk determinations under CAA section 112 for various major sources of hazardous air pollutants categories and also for failure to review and revise as necessary emission standards promulgated every 8 years.
- 11/30 Pursuant to a Consent Decree, EPA must sign a notice of final rulemaking to approve, disapprove, conditionally approve, or approve in part and conditionally approve or disapprove in part an outstanding SIP submittal for New York for Industrial Cleaning Solvents (2006) CTG RACT in *Center for Biological Diversity, et al. v. EPA*.
- 11/30 Pursuant to a Consent Decree, EPA must sign a notice of final rulemaking to approve, disapprove, conditionally approve, or approve in part and conditionally approve or disapprove in part an outstanding SIP submittal for NY-N. New Jersey-Long Island, NY for NNSR – Moderate in *Center for Biological Diversity, et al. v. EPA*.
- 11/30 Pursuant to a Consent Decree, EPA must sign a notice of final rulemaking to approve, disapprove, conditionally approve, or approve in part and conditionally approve or disapprove in part an outstanding SIP submittal for Jamestown, NY for NNSR – Marginal in *Center for Biological Diversity, et al. v. EPA*.
- 11/30 Pursuant to a Consent Decree, EPA must sign a notice of final rulemaking to approve, disapprove, conditionally approve, or approve in part and conditionally approve or disapprove in part an outstanding SIP submittal for New York OTR RACT NOx for Major Sources and RACT Non-CTG VOC for Major Sources in *Center for Biological Diversity, et al. v. EPA*.

- 11/30 The Answer is due in *Figley v. EPA*, a FOIA litigation concerning multi-part FOIA request that sought records regarding the BP settlement.
- 11/30 Hearing on motion to dismiss is due in *Food and Water Watch v. EPA*, a challenge to the denial of TSCA fluoride petition.
- 12/01 Motion to Govern Further Proceedings due in *Association of Battery Recyclers, Inc., et al. v. EPA*, an Issue 21 - Petition for review of secondary lead RTR (CAA sections 112 (d)(6) and (f)(2)).
- 12/01 Cross motion for summary judgment and opposition to plaintiff's motion for summary Judgment due in *Environmental Integrity Project, et al. v. Pruitt* (and consolidated cases), a CAA § 304 action alleging failure to respond to a petition to object to a Title V permit issued by the Texas Commission on Environmental Quality for various facilities.
- 12/01 Response due in *Murray Energy Corp., et al. v. EPA*, a Petition for a writ of certiorari of in *Murray Energy Corp. v. EPA*, 861 F.3d 529 (4th Cir. 2017).
- 12/01 Court ordered deadline to sign for publication a notice of final action on rulemaking for financial assurance requirements under CERCLA 108(b) for the hard rock mining industry in *In re: Idaho Conservation League, et al.*

Office of International and Tribal Affairs

Hot Issues:

None

Upcoming Engagements:

November 27 – Disney World Food Waste Event in Orlando

Past Week Highlights:

CEC Joint Public Advisory Committee Meeting – The Commission on Environmental Cooperation (CEC) Joint Public Advisory Committee (JPAC) held its fall public consultation meeting on “NAFTA’s Environmental Side Agreement: Assessing the Past, Looking Towards the Future.”

- This public consultation brought together former negotiators of the North American Free Trade Agreement (NAFTA) and the North American Agreement on Environmental Cooperation (NAAEC); former CEC Executive Directors; and academic, legal, trade and environmental experts to discuss the NAFTA/NAAEC history, implementation challenges and successes, and provide advice on the future of these agreements.
- In addition, one thousand stakeholders from across North America participated in the discussion via the web, and CEC Party representatives from Canada, Mexico, U.S. participated as observers.
- The JPAC will collate the findings from this public forum in a letter of advice to the CEC Council.

Peru Mercury Meetings - OITA met this week with representatives from Peru’s Ministry of Energy and Mines, Ministry of Customs, Ministry of Environment, large-scale gold mines that produce mercury as byproduct, and hazardous waste operators to advance mercury cooperation and outreach efforts.

- In December, Peru’s Ministry of Environment will host a meeting between public and private sector stakeholders, which will provide the foundational discussion for the development of a multi-sectoral national action plan addressing mercury management and storage in Peru.
- These stakeholder outreach efforts are part of an ongoing project between EPA and the Ministry of Environment in support of the Environmental Cooperation Agreement under the U.S.-Peru Free Trade Agreement and the U.S.-Peru MOU on Cooperation Related to Small-Scale Gold Mining.
- EPA’s cooperation on mercury is helping Peru meet its implementation obligations under the Minamata Convention on Mercury and serving as a regional model.

Arctic Contaminants Action Program and Local Environmental Observer Meetings

EPA (OITA and Region 10) co-chaired a joint meeting of the Hazardous Waste and Indigenous Peoples Contaminants Action Program Expert Groups under the Arctic Contaminants Action Program (ACAP). The meetings focused on solid and hazardous waste projects in the Arctic Council.

- In addition, EPA and the Alaska Native Tribal Health Consortium held a workshop on the Local Environmental Observer (LEO) Network at the Alaska Pacific University.
- This workshop focused on developing the LEO network through academic institutions in and out of Alaska, as well as expanding it with Sami communities in northern Europe.

- It was also suggested that the LEO expansion and development be featured at the upcoming Alaska Forum on the Environment.

Office of Land and Emergency Management

Hot Issues:

1. **Emergency response to hurricanes and wildfires.** Large-scale responses continue in both Region 2 (Puerto Rico and the US Virgin Islands) and Region 9 (California). Over 200 EPA employees and contractors are involved in each response; regions all across in the country are in support.
2. **Coal Combustion Residuals.** Oral argument is scheduled for 2pm on November 20th in the D.C. Circuit Court.
3. **CERCLA 108(b) Financial Assurance for Hard Rock Mining and Mineral Processing.** The draft of the final rule was provided to OMB for review on November 1. We have a judicial deadline of December 1.
4. **Clean Air Act 112(r) Risk Management Program.**
5. **Ongoing major Superfund NPL sites (for example, B.F. Goodrich, East Chicago, West Lake, Gold King Mine/Bonita Peak, Hudson River, Portland Harbor, Mississippi Phosphates).**
6. **CERCLA-EPCRA AFO-CAFO Rule.** EPA continues to update the guidance to communicate requirements to agricultural stakeholders. Most recently, EPA updated the guidance to alert farmers of an option to email an initial continuous release notification to the National Response Center (NRC) in lieu of a phone call. EPA expects that this will reduce the volume of calls to the NRC and ensure that calls to report emergencies are immediately answered. EPA is requesting comments on the guidance through November 24th.

Upcoming Public Events:

1. **Food Recovery Challenge (FRC).** We plan to announce the 2017 winners in late November.
2. **Superfund Division Directors (SF DD) Meeting [not a public meeting].** The SF DD in-person meeting will take place November 28 – 30, at EPA/Potomac Yards.
3. **Brownfields Conference.** The national Brownfields Conference will take place on December 4 – 7, 2017, in Pittsburgh. To date, approximately 2,000 attendees are registered.

Upcoming Major Decisions:

1. **E-Manifest User Fee Final Rule.** The rule package is with OMB.
2. **RMP Rule Reconsideration.** OLEM, OGC, and the AO are conferring on next steps and schedule.

Last Week Highlights:

1. **House Appropriations Briefing.** On November 14, OLEM joined OCFO, OCIR, and Regions 2, 4, and 6 in a Members' Briefing on EPA's work on the recent hurricanes and California wildfires. Answers to follow-up questions are now being drafted.
2. **America Recycles Day.** On November 15, OLEM participated at the America Recycles Day event organized by Keep America Beautiful and the Institute of Scrap Recycling Industries.

Office of Policy

Documents Submitted to OFR from November 8 - 14, 2017

FRL	Title	Date Submitted to OFR
9970-19-Region 6	Approval and Promulgation of Air Quality Implementation Plans; Arkansas; Infrastructure State Implementation Plan Requirements for the National Ambient Air Quality Standards	11/14/2017
9971-05-Region 7	State of Iowa; Withdrawal of Direct Final Rule; Elements of the Infrastructure SIP Requirements for the 2012 Annual Fine Particulate Matter (PM _{2.5}) National Ambient Air Quality Standard (NAAQS)	11/14/2017
9969-76-OEI	SmartWay Transport Partnership (Renewal)/ICR No.2265.03	11/14/2017
9970-86-Region 9	Approval of California Air Plan Revisions, Mojave Desert Air Quality Management District	11/14/2017
9970-87-Region 9	Approval of California Air Plan Revisions, Mojave Desert Air Quality Management District	11/14/2017
9970-80-Region 3	Approval and Promulgation of Air Quality Implementation Plans; Virginia; Removal of Clean Air Interstate Rule (CAIR) Trading Programs; Withdrawal of Direct Final Rule	11/14/2017
9970-42-Region 9	Adequacy Status of Motor Vehicle Emissions Budgets in Submitted Reasonable Further Progress Plan for San Diego 8-hour Ozone for Transportation Conformity Purposes; California	11/14/2017
9970-97-Region 7	Withdrawal of Direct Final Rule; Air Quality Implementation Plans; Nebraska; Infrastructure SIP Requirements for the 2010 Nitrogen Dioxide and Sulfur Dioxide and the 2012 Fine Particulate Matter National Ambient Air Quality Standards	11/13/2017
9970-98-Region 7	State of Iowa; Withdrawal of Direct Final Rule; Elements of the Infrastructure SIP Requirements for the 2010 Sulfur Dioxide	11/13/2017

	National Ambient Air Quality Standard (NAAQS)	
9970-99-Region 7	State of Iowa; Withdrawal of Direct Final Rule; Elements of the Infrastructure SIP Requirements for the 2010 Nitrogen Dioxide National Ambient Air Quality Standard (NAAQS)	11/13/2017
9966-10-OCSP	Tebufenozide; Pesticide Tolerance Actions	11/13/2017
9970-61-OAR	Repeal of Emission Requirements for Glider Vehicles, Glider Engines, and Glider Kits	11/13/2017
9970-69-Region 3	Approval and Promulgation of Air Quality Implementation Plans; Maryland; Withdrawal of Direct Final Rule for the Approval of an Alternative Volatile Organic Compound Emission Standard	11/13/2017
9970-82-Region 3	Approval and Promulgation of Air Quality Implementation Plans; Maryland; 2011 Base Year Inventory for the 2008 8-Hour Ozone National Ambient Air Quality Standard for the Maryland Portion of the Philadelphia-Wilmington-Atlantic City Nonattainment Area; Withdrawal of Direct Final Rule	11/13/2017
9970-75-OECA	Clean Water Act Class II: Proposed Administrative Settlement, Penalty Assessment and Opportunity to Comment Regarding Enel Green Power North America, Inc.	11/9/2017
9970-67-OGC	Proposed Settlement Agreement, Clean Air Act Title V Permit Appeal	11/9/2017
9968-26-OCSP	Community Right-to-Know; Adopting 2017 North American Industry Classification System (NAICS) Codes for Toxics Release Inventory (TRI) Reporting; Withdrawal	11/8/2017
9970-02-OCSP	Community Right-to-Know; Adopting 2017 North American Industry Classification System (NAICS) Codes for Toxics Release Inventory (TRI) Reporting; Final Rule	11/8/2017
9970-77-OAR	Air Quality Designations for the 2015 Ozone National Ambient Air Quality Standards (NAAQS)	11/8/2017

9970-73-OW	State of Idaho Voluntary Transfer of Primacy of the Class II Underground Injection Control Program to the Environmental Protection Agency	11/8/2017
9970-62-OW	Information Session; Implementation of the Water Infrastructure Finance and Innovation Act of 2014	11/8/2017
9970-60-Region 1	Notification of Partial Voluntary Withdrawal of Delegation of Authority; Connecticut; National Emission Standards for Hazardous Air Pollutants for Asbestos	11/8/2017
9970-85-Region 7	State of Iowa; Withdrawal of Direct Final Rule; Approval and Promulgation of the State Implementation Plan, the Operating Permits Program, and the 111(d) Plan	11/8/2017

Office of Research and Development

This week Richard Yamada and I had a successful trip to Cincinnati. We toured laboratory facilities, met with researchers and senior leaders, enjoyed ORD tool demonstrations, and attended the 36th Annual ORD Awards Ceremony and Reception to recognize our colleagues across ORD for their valuable contributions to EPA in 2016.

Hot Issues:

TSCA Support

ORD continues to provide support to OPPT for the successful implementation of the revised TSCA, including:

- **Alternative Testing Strategy Effort:** ORD will meet tomorrow with OPPT and OPP to discuss next steps for the TSCA mandated Alternative Toxicity Testing Strategy Document. The next steps follow from the November 2 public meeting during which OPPT received comments from industry and the international community concerning a preliminary draft of the strategy document.
- **Chemical Pre-Prioritization Effort:** ORD has provided technical materials and will be making a presentation at the upcoming December 11 public meeting focused on pre-prioritization options.
- **Chemical Exposure Support:** ORD has held three workshops with OPPT scientists to discuss information, data, tools and models support estimates of exposure for: chemicals from consumer products, occupational exposure, and ambient exposure. A series of next steps for both ORD and OPPT have been identified from those meetings and are now being reviewed by OPPT.

Reported Cancer Cluster in Cincinnati

On November 13, CDC/NIOSH contacted ORD to participate in a discussion on a potential cancer cluster reported at a City of Cincinnati's police station. While little information is available regarding the specifics of the cancers linked to the station, NIOSH is interested in learning more about potential environmental exposures. ORD provided general information on potential environmental exposures, given the characteristics and location of the police station. These exposures could include vapor intrusion, radon, electric and magnetic fields, asbestos, HVAC operation, and particulate matter from proximity to two major highways, as well as temporal and spatial limitations of any past air sampling data. NIOSH personnel are meeting with representatives of the Cincinnati Police Department investigative team on November 15. A NIOSH Health Hazard Evaluation (HHE) has been requested. NIOSH will move forward with the investigation, and may follow-up with EPA on additional environmental questions at a later date. This issue has been getting local news coverage.

Visit to Cape Fear, NC on PFAS treatment

On November 30, ORD scientists will visit the Cape Fear Public Utility Authority (CFPUA) plant as part of EPA's PFAS treatment project. This will be an exploratory meeting to understand in detail the PFAS issues and systems treatment approach. The goal will be to further integrate CFPUA's work with Region 4. Similar preliminary discussions have been held with Greater Cincinnati Water Works.

Upcoming Public Events:**ORD to Train Superfund Remedial Project Managers**

To support quick implementation of newly published guidance that will help EPA set risk-based remedial goals for cleanup of contaminated sediment sites, OLEM has asked the ORD authors to provide training at the Superfund National Association of Remedial Project Manager's Training Program on December 4th in Denver, CO. The new guidance, produced by ORD at the request of OLEM, is in demand by states, EPA regions, tribes, the EPA Great Lakes National Program Office, and Superfund potentially responsible parties. In part, the high demand for training on the guidance is because the new methodology could lower the extent (i.e., fewer acres) and costs of remedial actions while enabling quicker completion of those actions.

National Advisory Council for Environmental Policy and Technology Meeting

On November 28, the National Advisory Council for Environmental Policy and Technology (NACEPT) will meet to review the first draft of their report on EPA's use of citizen science. The council will discuss draft findings and recommendations, which focuses on how to better use citizen science information for actions and decisions. The NACEPT council will also provide comments on EPA's draft Handbook for Citizen Science Quality Assurance (developed by OEI, R1 and ORD/OSA).

National EPA-Tribal Science Council Meeting

On December 4-8, the National EPA-Tribal Science Council's (TSC) meeting will be hosted by the Salt River Pima-Maricopa Indian Community in Phoenix, AZ. Research discussions will focus on EPA's new lead education curriculum, Region 1's RARE project on a fisheries study risk assessment, and trainings on tribal water quality. On December 7, ORD will facilitate a TSC-hosted listening session on tribal science priorities.

Last Week Highlights:**Net Zero Meeting at Fort Campbell, Kentucky**

On November 1-2, ORD and OLEM staff met with Garrison leadership and senior staff from the Department of Public Works at U.S. Army's Fort Campbell, Kentucky to explore the potential for new place-based Net Zero projects at the installation. The goals for the meeting were to identify areas of overlapping interest for environmental and public health research and create a list of project concepts to be considered in the next round of ORD's research action plans.

Nutrient Sensor Action Challenge

On November 3, the judging panel for the Nutrient Sensor Action Challenge reviewed proposals for Stage 1 awards (i.e., plans for demonstrating low-cost sensors in the field for local decision-making). Five applications were selected and winners will receive \$10,000: Western Lake Erie – Cooperative Institute for Great Lakes Research, University of Michigan; Portland, Maine – Casco Bay Estuary Partnership; Galena River – Illinois State Geological Survey; Great Bay Estuary – Department of Natural Resources and Environment, University of New Hampshire; and, Upper Chesapeake Bay – University of Maryland Center for Environmental Science.

ORD Tools and Resources webinar

On November 14, ORD hosted our monthly public webinar for states, tribes and others. The webinar highlighted how federal agencies (EPA, NASA, NOAA and USGS) are collaborating to use real-world satellite applications that support environmental management of US lakes by quantifying

cyanobacterial harmful algal blooms and related water quality parameters. It also highlighted how satellite cyanobacteria data and three different software tools available to state environmental and health agencies for review and testing as part of the Cyanobacteria Assessment Network (CyAN).

Procedure for Lead Bioavailability Published

The in-vitro extraction procedure built and validated by ORD researchers has now become an SW-846 protocol, [EPA Method 1340](#). The method is an in-vitro bioaccessibility assay (i.e., the measure of the physiological solubility of the lead that may be available for absorption into the body) for lead-contaminated soils. The amount of lead absorbed into the bloodstream is an important factor in calculating the level of clean up necessary at contaminated sites to safeguard human health. The default value for this has been at 100%; i.e., remove all traces of lead. In real settings, much of the lead can be chemically complexed with other minerals in the soil so that the body will not absorb it. The degree of complexation will vary with the type of soil present, soil pH, and other factors. Anything that lowers the bioavailability factor below 100% will likely make clean up less expensive, since the clean-up will not need to be as stringent.

Grantee Publication

Grantees from the [California Public Policy Institute](#), recently released a report on [Managing California's Freshwater Ecosystems: Lessons from the 2012-16 Drought](#). Given changes in water and land use such as reduced flows below reservoirs and disconnection of rivers from floodplains, the recent drought conditions have amplified the effects of the drought along with the ability of species to recover after the drought. Using eight case studies on environmental water management during the 2012-16 drought the report provided three interrelated policy recommendations: improve environmental water accounting through monitoring ecological conditions and tracking water availability and use, establish drought planning and preparation including advanced planning and setting priorities for water allocation ahead of time, and establish flexible ecosystem water budgets including minimum flow and water quality standards.

ORD Supports Region 6 Oklahoma Response

EPA Region 6, ORD, and Oklahoma DEQ have been working together in response to multiple cases of girls (ages ~14-18) falling ill in Dewey, Oklahoma. While the cause for their illnesses is unknown, EPA has been asked, in accordance with the Oklahoma State DEQ, to perform a series of environmental tests at their school. EPA Region 6 On Scene Coordinators have requested information from ORD for methods for sampling and analysis for a variety of potential metals, pesticides, and other hazardous chemicals in air, water, and surfaces. Detailed surface sampling assistance (wipe sampling and method recommendations) has been requested to identify the pesticides applied, as well as where they have been applied. ORD is continuing to assist Region 6 with this effort.

Superfund and State Support:

- **Technical support for West Lake Landfill Superfund Site, Bridgeton, MO, week of November 6.** ORD provided a technical evaluation of a cooling loop system installed at the West Lake Landfill Superfund Site. The Region 7 Remedial Project Manager for Operable Unit 2 (OU-2) requested that ORD provide an overview and initial technical evaluation of the performance of the cooling loop system installed in OU-2 to extract heat from the landfill waste mass. The purpose of the cooling loop system is to function as a deterrent and potential first line of defense from any subsurface smoldering event (SSE) that may move northward in the waste mass. West Lake Landfill is contaminated with radiological waste from uranium ore processing.

- **Field studies to support cleanup at Fort Devens Superfund Site, November 28-December 1.** ORD is conducting field research designed to provide performance verification for groundwater remediation and facilitate testing of the beta version of an ORD-developed analysis tool for evaluating groundwater seepage flux. ORD is assisting Region 1 and the Massachusetts Department of Environmental Protection to investigate the impact of recently implemented remedial measures on groundwater flow and contaminant transport. Fort Devens is a former military training base with petroleum, arsenic, heavy metals, and other hazardous chemical contamination in the groundwater, soil, and sediment.
- **Analysis at Argonne National Lab in support of multiple ORD research projects and technical assistance, Lemont, IL, November 28-December 8** ORD will conduct X-ray absorption spectroscopy studies at the Advanced Photon Source synchrotron facility located at the [Argonne National Lab](#). This effort supports research areas including bioavailability, materials management, tech support for soil and sediment contamination, soil amendments for remediation and nanomaterials to determine the speciation of elements to understand fate, risk, and toxicity.
- **ORD support to the Oklahoma Department of Environmental Quality (ODEQ) with soil amendment efforts at Tar Creek Superfund Site:** ORD's efforts will help the state evaluate the effectiveness of a soil amendment technology with regard to bioavailability at this site. ODEQ will collect soil samples that will undergo *in-vivo* animal testing and the speciation analysis by ORD.

Field studies at Fort Lewis Logistics Center Superfund Site, Tacoma, WA, November 29-December 6: ORD will travel to the East Gate Disposal Yard at the Fort Lewis Logistics Center Superfund Site. This field study work is part of a project funded under the U.S. Department of Defense's Environmental Security Technology Certification Program (ESTCP) to conduct long-term post-remedial monitoring using flux-based measurements. This work will help assess long-term benefits of non-aqueous phase liquid source zone remedial treatments and is being conducted in collaboration with the University of Florida. The [Fort Lewis Logistics Center site](#) has groundwater, soil, sludge, and surface water contaminated with heavy metals and other hazardous chemicals.

Office of Water**Hot Issues:**

Waters of the U.S. – On November 16, EPA and the Army Corps of Engineers released a pre-publication version of the notice proposing to amend the effective date of the 2015 rule. The comment period will be open for 21 days from the date of publication in the Federal Register. In support of general outreach for the Step 2 rulemaking, the agencies held their 9th webinar on November 14, aimed at the drinking water, wastewater and stormwater community. Twenty (20) speakers provided feedback. The last outreach webinar will be held on November 21 and the administrative docket that is open for recommendations is slated to close on November 28.

Massachusetts Small MS4 General Permit: On November 10, the Plaintiffs filed a motion for summary judgment in the lawsuit challenging EPA's delay of the effective date of the Massachusetts Small MS4 general permit based on Section 705 of the APA in the U.S. District Court for Massachusetts. Our answer to the complaint is due on November 27.

Perchlorate Federal Register Notice: As early as next week, OW anticipates sending to OP for publication in the Federal Register, a notice announcing the second perchlorate public peer review meeting and the final list of expert peer review panelists. The meeting will be held January 29-30, 2018 to review EPA's "Draft Report: Proposed Approaches to Inform the Derivation of a Maximum Contaminant Level Goal for Perchlorate in Drinking Water".

CRADA for Metal Toxicity and Bioavailability in Water Criteria: As early as next week, OW anticipates entering into a Cooperative Research and Development Agreement (CRADA) with eight (8) metals associations, including the Aluminum Association, the Cobalt Institute and the International Copper Association. The purpose of this agreement is to better protect aquatic life by developing an overarching modeling approach which can be used to predict the bioavailability and toxicity of metals in future Aquatic Life Water Quality Criteria. Via the CRADA, EPA will work collaboratively with metals associations who have technical expertise in how water quality variables, such as pH and hardness, affect the toxicity of metals to aquatic life. As a result of the CRADA, EPA intends to develop models using the most current science to facilitate the efficient development and implementation of Aquatic Life Water Quality Criteria for metals.

CSO Public Notice in the Great Lakes Final Rule: Today, OP sent to OMB for review the final CSO Public Notice in the Great Lakes rule. This effort is in response to Section 425 of the 2016 Consolidated Appropriations Act which requires EPA to work with affected states to create public notice requirements for a combined sewer overflow discharge to the Great Lakes. The Act provides that the notice and publication requirements of the Appropriations Act shall be implemented by December 18, 2017. The final rule requirements closely follow the legislation and address signage, notification of local public health departments and other potentially affected public entities, notification to the public, and annual notice provisions and apply to NPDES permittees authorized to discharge from a CSO to the Great Lakes Basin.

Upcoming Public Events:

Environmental Law and Policy Event: The week of November 27, lee will speak at an environmental law and policy event hosted by Hunton & Williams entitled *Insights into Environmental Law & Policy: A Conversation with Key Regulators*. Lee will be addressing wetlands and water issues, in particular the WOTUS rulemaking. The event is closed to the press.

Building Better Collaboration Towards Addressing Water, Sanitation, and Hygiene Issues in Marginalized Communities in the USA Meeting: The week of November 27, OW will participate in this meeting convened by the Global Water Challenge, U.S. Water Partnership, UNICEF and Stanford University's Water in the West program. This meeting will bring together leaders from federal and local governments, the private sector, academia, and NGOs to harmonize efforts in improving water and sanitation accessibility, reliability, quality, and affordability for marginalized communities across the U.S.